

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

S.B. Supply, Inc.  
14029 Catalina Street  
San Leandro, California 94577

EPA ID No. CAR 000 086 777

Respondent.

Docket HWCA 2003003

STIPULATION AND ORDER

Health and Safety Code  
Section 25187

INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and S.B. Supply, Inc., (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1.2. Site. Respondent generates, handles, treats, stores, and/or disposes of hazardous waste at the following site: 14029 Catalina Street, San Leandro, California 94577 (Site).

1.3. Inspection. The Department inspected the Site on May 21 and 22, 2003.

1.4. Authorization Status. Transporter Registration No. 4120 issued to S.B. Supply, Inc., expired on December 31, 2002. Respondent filed an application for registration on January 10, 2003, however, said application lacked evidence of financial assurance and was rejected.

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Hearing. Respondent waives any right to a hearing in this matter.

1.7. Full Settlement. By their respective signatures below, the Parties, and each of them, agree that this Stipulation, and all of the terms contained herein, are fair, reasonable, and in the public interest. This Order shall constitute full settlement of the violations alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.

### VIOLATIONS

2.1. Enforcement Order. On April 8, 2004, the Department issued an Enforcement Order (Order) to Respondent, a true and correct copy of said Order is attached hereto as Attachment A, and is incorporated herein by this reference.

2.2. Admissions. Respondent admits the violations set forth in the Order.

### SCHEDULE FOR COMPLIANCE

3. Respondent shall comply with the following:

3.1. During the period of time beginning on the effective date of this Consent Order and continuing uninterrupted thereafter for five years, Respondent, and its principal, Sang Yong Cho, and each of them, shall hold no ownership interest (legal, equitable, debt or beneficial) in any corporation, partnership, proprietorship, limited liability company, trust, or other business organization of any kind or description subject to regulation by the California Department of Toxic Substances Control.

3.2. Submittals. All submittals from Respondent pursuant to this Order shall be sent to:

Ms. Charlene Williams, Branch Chief  
Northern California Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710

3.3. Communications. All approvals and decisions of the Department made regarding submittals and notifications will be communicated to Respondent in writing by the Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may otherwise be required.

3.4. Department Review and Approval. If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with this Order or fails to protect public health or safety or the environment, the Department may:

a. Modify the document as deemed necessary and approve the document as modified, or

b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

3.5. Compliance with Applicable Laws. Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

3.6. Endangerment during Implementation. In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Order) creates an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation of this Order for such period of time as needed to abate the endangerment. Any deadline in this Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

3.7. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

3.8. Site Access. Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any other agency having jurisdiction. The Department and its authorized representatives shall have the authority to enter and move freely about all property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Order; and conducting such tests as the Department may deem necessary. Nothing in this Enforcement Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

3.9. Sampling, Data, and Document Availability.

3.9.1. Respondent shall permit the Department and its authorized representatives to inspect and copy all sampling, testing, monitoring, and other data generated by Respondent or on Respondent's behalf, in any way pertaining to work undertaken pursuant to this Order.

3.9.2. Respondent shall allow the Department and its authorized representatives to take duplicates of any samples collected by Respondent pursuant to this Order. Respondent shall maintain a central depository of the data, reports, and other documents prepared pursuant to this Order. All such data, reports, and other documents shall be preserved by Respondent for a minimum of six years after the conclusion of all activities under this Order.

3.9.3. If the Department requests that some or all of these documents be preserved for a longer period of time, Respondent shall either:

- (a) comply with that request,
- (b) deliver the documents to the Department, or
- (c) notify the Department in writing at least six months prior to destroying any documents prepared pursuant to this Order and permit the Department to copy the documents prior to destruction.

3.10. Government Liabilities. Neither the State of California nor the Department shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties in carrying out activities pursuant to this Order, nor shall the State of California nor the Department be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

3.11. Incorporation of Plans and Reports. All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Order are incorporated in this Order upon approval by the Department.

3.12. Extension Requests. If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

3.13. Extension Approvals. If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

## OTHER PROVISIONS

4.1. Additional Enforcement Action. By issuance of this Order, the Department does not waive any right to take further enforcement actions or to impose penalties for the violations requiring immediate correction pursuant to this Order.

4.1. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

4.2. Parties Bound. This Order shall apply to and be binding upon Respondent and its officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations.

4.3. Integration. This Consent Agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except by a writing duly executed by the Department and specifically referencing this document by title and docket number, or as otherwise provided in this Consent Agreement.

4.4. Privileges. Nothing in this Consent Agreement shall be construed to require any party to waive any privilege, including without limitation, attorney-client and attorney work-product. However, the assertion of any privilege shall not relieve any party of its obligations under this Order.

## PENALTY

5.1. Respondent shall pay the Department the total sum of \$68,230, which includes \$7,650 as reimbursement of the Department's costs incurred in connection with this matter.

5.2. Payment in the total amount of \$30,000 is due as follows:

Date	Amount
November 1, 2004	\$5,000
December 1, 2004	\$2,000
January 1, 2005	\$2,000
February 1, 2005	\$2,000
March 1, 2005	\$10,000
April 1, 2005	\$2,000
May 1, 2005	\$2,000
June 1, 2005	\$2,500
July 1, 2005	\$2,500

5.3. If Respondent shall fail to strictly comply with any requirement of the Schedule for Compliance herein and/or shall fail to pay any sum required to have been paid pursuant to paragraph 5.2 above, the total sum set forth at paragraph 5.1 above, with due credit for all sums paid, shall then be immediately due and owing, without further notice.

Respondent further agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

5.4. Upon the strict completion of all requirements of the Schedule for Compliance herein and timely payment of all sums required to be paid under paragraph 5.2 above, all additional sums then due pursuant to paragraph 5.1 shall be forgiven.

5.5. Respondent's checks shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the

caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street, 21st floor  
P. O. Box 806  
Sacramento, California 95812-0806

Photocopies of the checks shall be sent simultaneously to:

Charlene Williams, Branch Chief  
Northern California Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710

James J. Grace  
Office of Legal Counsel  
Department of Toxic Substances Control  
1001 I Street, 23rd Floor  
P. O. Box 806  
Sacramento, California 95812-0806

EFFECTIVE DATE

6. The effective date of this Order is the date it is signed by the Department.

Date: 10/19/04

(Original signed by Sang Y. Cho)  
Respondent

Dated: 10/21/04

(Original signed by Charlene Williams)  
Ms. Charlene Williams, Branch Chief  
Northern California Branch  
Statewide Compliance Division  
Department of Toxic Substances  
Control